

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD MASSIE,

Plaintiff, :

REPORT & RECOMMENDATION

-against- :

06 Civ. 12905 (JSR) (MHD)

METROPOLITAN MUSEUM OF ART, :

Defendant. :

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TO THE HONORABLE JED S. RAKOFF, U.S.D.J.:

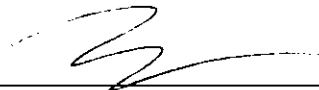
By a document dated August 1, 2008 pro se plaintiff Richard Massie seeks reconsideration of an order entered December 5, 2007 granting in part defendant's motion to dismiss. We recommend that the motion be denied.

Plaintiff previously sought reconsideration of the December 5, 2007 order, and the District Court denied it because plaintiff failed to demonstrate that the court had overlooked any pertinent facts or governing law. (Order dated Dec. 18, 2007). Plaintiff's current motion is untimely under S.D.N.Y. Civil Rule 6.3, and in any event it fails to demonstrate any error on the part of the court in its original ruling. Accordingly we recommend that the motion be denied.

Pursuant to Rule 72 of the Federal Rules of Civil Procedure,

the parties shall have ten (10) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies to be delivered to the chambers of the Honorable Jed S. Rakoff, Room 1340, and to the chambers of the undersigned, Room 1670, 500 Pearl Street, New York, New York 10007. Failure to file timely objections may constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(d); Thomas v. Arn, 470 U.S. 140, 150-52 (1985); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Dated: New York, New York
August 12, 2008



MICHAEL H. DOLINGER
UNITED STATES MAGISTRATE JUDGE

Copies of the foregoing Report and Recommendation have been mailed today to:

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